

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED

FEB 25 2014


CLERK

* * * * *

GLO, INC.,

Plaintiff,

v.

WM KUETHER, INCORPORATED, and
WILLIAM M. KUETHER,

Defendants.

* * * * *

CIV# 14-1002

NOTICE OF REMOVAL
PURSUANT TO
28 U.S.C. §1441(B)

TO THE HONORABLE CHARLES B. KORNMANN, JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA:

PLEASE TAKE NOTICE that Defendants WM. KUETHER, INCORPORATED, and WILLIAM M. KUETHER, collectively referred to as "William Kuether", hereby remove to this Court the State Court action described herein.

1. The above entitled action was commenced in Circuit Court for Codington County, South Dakota, Third Judicial Circuit, by GLO, INC., Plaintiff v. WM KUETHER, INCORPORATED, et al., CIV 14-07.

2. William Kuether, on behalf of WM KUETHER, INCORPORATED, and himself individually, was served with a copy of the Summons and Complaint on January 27, 2014. True and correct copies of the Summons and Complaint are attached hereto, marked as Exhibits A and B, and incorporated as reference by 28 U.S.C. §1446(a). A true and correct copy of the Return of Service is attached hereto, marked as Exhibit C, and incorporated by reference as required by 28 U.S.C. §1446(a). Those are all of the pleadings served on William Kuether and WM KUETHER, INCORPORATED, to date.

3. This action first became removable following service of the Summons and Complaint. The filing of this Notice of Removal is timely, in that it is filed within thirty (30) days of the date of service of the Summons and Complaint, the date that the action first became removable.

4. This action is a civil action in which the Plaintiff seeks damages against the Defendants in an amount in excess of \$75,000.00, exclusive of interest and costs.

5. Plaintiff's Complaint represents that Plaintiff is a South Dakota corporation with its principal place of business in Watertown, South Dakota.

6. At the time suit was commenced, and at the time of this notice of removal, Defendant, WM KUETHER, INCORPORATED, is an inactive Minnesota corporation with its principal place of business in Minnetonka, Minnesota, and therefore was a "citizen" of Minnesota. At the time suit was commenced, William Kuether was a Minnesota citizen, living and residing in Minnetonka, Minnesota.

7. The above entitled action is a civil action and involves a dispute and controversy properly within the original jurisdiction of the United States District Court pursuant to 28 U.S.C. §1332, as there is complete diversity between the Plaintiff and Defendants, and it is alleged that the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

8. This action is, therefore, removable to this Court, pursuant to 28 U.S.C. §1441(b).

9. Pursuant to U.S.C. §1446(d), a copy of this Notice of Removal will be served on counsel for the Plaintiff by first class mail, and a Special Appearance and Notice of Removal has been filed in the office of the Clerk of Courts of Codington County, South Dakota, Third Judicial Circuit, where the State Court action is pending. A copy of the said Special Appearance and Notice of

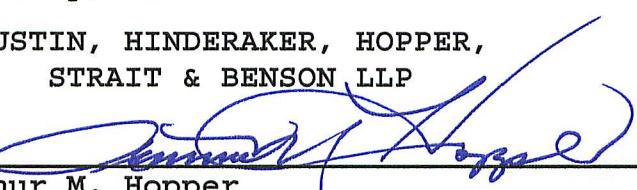
Removal is attached hereto, marked as Exhibit D, and incorporated herein by reference. Exhibit D was served by mailing to counsel for all parties.

10. The undersigned attorney for William Kuether has read the foregoing, and signed is pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. §1446(a).

WHEREFORE, William Kuether requests that this action be removed from the Codington County Circuit Court, Third Judicial Circuit, to this Court.

Dated this 24th day of February, 2014.

AUSTIN, HINDERAKER, HOPPER,
STRAIT & BENSON LLP

BY: 

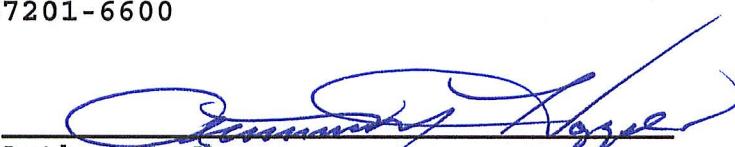
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CERTIFICATE OF SERVICE

Arthur M. Hopper, of Austin, Hinderaker, Hopper, Strait & Benson LLP, hereby certifies that on the 24th day of February, 2014, I served the foregoing Notice of Removal on counsel for Plaintiff by mailing a true copy thereof to:

James C. Roby
Green, Roby, Oviatt, Cummings & Linngren, LLP
P O Box 1600
Watertown SD 57201-6600

by first class mail.


Arthur M. Hopper